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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,337	07/01/2005	Christian Orange	37484	7737
116	7590	07/06/2006	EXAMINER	
PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108			ROGERS, DAVID A	
			ART UNIT	PAPER NUMBER
			2856	

DATE MAILED: 07/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/541,337	Applicant(s) ORANGE ET AL.	
	Examiner David A. Rogers	Art Unit 2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 July 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/1/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities.

a. The applicant refers to reference item numbers 2 and 3 as “corbelled” sections. It is unclear what is meant by a “corbelled” section as the term “corbel” is generally utilized in architecture to describe a bracket of stone, wood, brick, or other building material, projecting from the face of a wall and generally used to support a cornice or arch. Reference item numbers 2 and 3 do not appear to be brackets. Applicant is requested to utilize a better term of art other than “corbel” or “corbelled”; e.g., extension. Appropriate correction is required.

b. On page 5 (line 9) the base plate is shown as having reference item number 6 vice 5. Appropriate correction is required.

c. On page 5 (line 26) the phrase “or other” should be amended to --or other container-- in order to improve readability. Appropriate correction is required.

d. The applicant refers to reference item 4 as a “drawer”. It is unclear how reference item 4 is a “drawer” as it appears to be a movable/reciprocating member. It is requested that the applicant delete the term “drawer” and replace it with a more appropriate term such as “reciprocating member”.

Drawings

2. The applicant’s figures 1 and 2 are acceptable. However, it is requested that the applicant furnish a third drawing; e.g., figure 1A, that shows the flap in

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the extended position, the “drawer” in its upper position, the beaker (reference item 14) in its installed position, and powder being accumulated in the groove.

Claim Objections

3. Claims 1-3 are objected to because of the following informalities. The claims appear to be a literal translation of the applicant’s priority document. Furthermore, the specification makes no mention of an “appended part”. It is assumed that this should be the “corbelled section” which, as noted above, should be renamed as an “extension”. Finally, claim 1 refers to the “drawer” having a first position where the groove in the appended part (shown in figure 2) and a second position where the groove is beyond the appended part. This adds confusion to the claim since it is not expressly stated what member(s) in figure 1 define an appended part.

To improve readability the following suggested changes to the claims are provided to the applicant.

1. Powder sampling device comprising:

an extension ~~appended part~~, generally empty of powders, coupled to ~~of a~~ powder flow channel (1) and having an angled base plate (6);

a reciprocating member ~~drawer~~ (4) having a groove traversing a wall of the extension ~~appended part~~, and sliding between a first position wherein said a groove is located above the extension in order to collect a powder sample and (5) in it extends into the appended part and a second position wherein said the groove is located within the extension in order to release the collected powder sample, extends beyond the appended part, the groove being defined by a ceiling face (7) and an angled face (8) limited by faces (7, 8) where the powder slides or falls; and

a flap (15) in the flow channel that moves, moving between a withdrawn position where it has ~~no~~ essentially no effect on the flow of the powders and an extended position where it directs the flow of the powders into the groove ~~appended part~~, characterized in that the reciprocating member ~~drawer~~ (4) has an essentially upright orientation ~~(more or less vertical)~~ and that the groove is limited by a ceiling

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~~face (7) and an angled face (8) is parallel to and extends from the which extend a base plate of the extension appended part when the reciprocating member drawer is in the first position.~~

2. Powder sampling device of claim 1, characterized in that:

~~the appended part is a corbelled section (2) of the channel (1) and it's the base plate (6) is angled towards the channel;~~

~~the second position is situated below the first position; and~~

~~the flap movement rotates from an essentially vertical, the withdrawn position being more or less vertical to an angled, and the extended position being angled through the channel, the extended position allowing the flap to touch flap touching the base plate just below the groove (5) when the reciprocating member is in the first position of the drawer (4).~~

3. Powder sampling device of claim 2, characterized in that the flap is a spout ~~having presenting an incurved section extending into a second corbelled section of the channel.~~

Allowable Subject Matter

4. Claims 1-3 are allowed subject to the corrections noted above.

5. The following is a statement of reasons for the indication of allowable subject matter:

United States Patent 4,024,765 to Abonnenc shows, in figure 14, a powder sampling apparatus comprising an appended part (reference item 57). The powders will flow via gravity through a channel (reference item 58) leaving the appended part generally empty of powder. A flap (reference item 59) is rotatable from a generally vertical position to an angled position in order to collect a sample of powder. A sampling probe having a groove can extend into the appended part or beyond the extended part. The sampling probe, however, is not oriented to be essentially vertical. Vertically-oriented sampling probes are known in the art. See, for example, United States Patent 3,091,969 to

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Romanchuck *et al.* The use of a vertically-oriented sampling probe from Romanchuck *et al.* on the device of Abonnenc would allow a plurality of distinct samples to be obtained. However, there is still no teaching or suggestion to provide a sampling probe whose angled face is an extension of a base plate.


Conclusion

6. This application is in condition for allowance except for the following formal matters noted above. Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213. A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

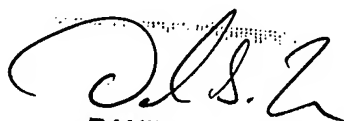
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A. Rogers whose telephone number is (571) 272-2205. The examiner can normally be reached on Monday - Friday (0730 - 1600). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



dar
26 June 2006



DANIEL S. LARKIN
PRIMARY EXAMINER